

House File 2377

H-8091

1 Amend House File 2377 as follows:

2 1. Page 1, line 29, before <shall> by inserting <or the
3 prescribing practitioner's designated agent>

4 2. Page 1, line 29, after <database> by inserting <prior to
5 issuing an opioid prescription>

6 3. Page 2, line 35, by striking <twenty-four>

7 4. Page 3, line 1, by striking <hours> and inserting <one
8 business day>

9 5. Page 4, line 32, by striking <program> and inserting
10 <department, and the department to report to the program,>

11 6. By striking page 5, line 7, through page 12, line 27, and
12 inserting:

13 <Sec. _____. Section 124.308, Code 2018, is amended by
14 striking the section and inserting in lieu thereof the
15 following:

16 **124.308 Prescriptions.**

17 1. Except when dispensed directly by a practitioner to an
18 ultimate user, a prescription drug as defined in section 155A.3
19 that is a controlled substance shall not be dispensed without
20 a prescription, unless such prescription is authorized by a
21 practitioner and complies with this section, section 155A.27,
22 applicable federal law and regulation, and rules of the board.

23 2. *a.* Beginning January 1, 2020, every prescription issued
24 for a controlled substance shall be transmitted electronically
25 as an electronic prescription pursuant to the requirements in
26 subsection 2, paragraph "b", unless exempt under subsection 2,
27 paragraph "c".

28 *b.* Except for prescriptions identified in paragraph "c",
29 a prescription that is transmitted pursuant to paragraph "a"
30 shall be transmitted to a pharmacy by a practitioner or the
31 practitioner's authorized agent in compliance with federal
32 law and regulation for electronic prescriptions of controlled
33 substances. The practitioner's electronic prescription system
34 and the receiving pharmacy's dispensing system shall comply
35 with federal law and regulation for electronic prescriptions of

1 controlled substances.

2 *c.* Paragraph "b" shall not apply to any of the following:

3 (1) A prescription for a patient residing in a nursing home,
4 long-term care facility, correctional facility, or jail.

5 (2) A prescription authorized by a licensed veterinarian.

6 (3) A prescription dispensed by a department of veterans
7 affairs pharmacy.

8 (4) A prescription requiring information that makes
9 electronic submission impractical, such as complicated or
10 lengthy directions for use or attachments.

11 (5) A prescription for a compounded preparation containing
12 two or more components.

13 (6) A prescription issued in response to a public health
14 emergency in a situation where a non-patient specific
15 prescription would be permitted.

16 (7) A prescription issued pursuant to an established and
17 valid collaborative practice agreement, standing order, or drug
18 research protocol.

19 (8) A prescription issued during a temporary technical
20 or electronic failure at the practitioner's or pharmacy's
21 location, provided that a prescription issued pursuant to
22 this subparagraph shall indicate on the prescription that the
23 practitioner or pharmacy is experiencing a temporary technical
24 or electronic failure.

25 (9) A prescription issued in an emergency situation
26 pursuant to federal law and regulation rules of the board.

27 *d.* A practitioner, as defined in section 124.101, subsection
28 27, paragraph "a", who violates paragraph "a" is subject
29 to an administrative penalty of two hundred fifty dollars
30 per violation, up to a maximum of five thousand dollars per
31 calendar year. The assessment of an administrative penalty
32 pursuant to this paragraph by the appropriate licensing board
33 of the practitioner alleged to have violated paragraph "a"
34 shall not be considered a disciplinary action or reported
35 as discipline. A practitioner may appeal the assessment of

1 an administrative penalty pursuant to this paragraph, which
2 shall initiate a contested case proceeding under chapter
3 17A. A penalty collected pursuant to this paragraph shall be
4 deposited into the drug information program fund established
5 pursuant to section 124.557. The board shall be notified
6 of any administrative penalties assessed by the appropriate
7 professional licensing board and deposited into the drug
8 information program fund under this paragraph.

9 e. A pharmacist who receives a written, oral, or facsimile
10 prescription shall not be required to verify that the
11 prescription is subject to an exception under paragraph "c"
12 and may dispense a prescription drug pursuant to an otherwise
13 valid written, oral, or facsimile prescription. However, a
14 pharmacist shall exercise professional judgment in identifying
15 and reporting suspected violations of this section to the
16 board or the appropriate professional licensing board of the
17 practitioner.

18 3. A prescription issued prior to January 1, 2020, or a
19 prescription that is exempt from the electronic prescription
20 requirement in subsection 2, paragraph "c", may be transmitted
21 by a practitioner or the practitioner's authorized agent to a
22 pharmacy in any of the following ways:

23 a. Electronically, if transmitted in accordance with
24 the requirements for electronic prescriptions pursuant to
25 subsection 2.

26 b. By facsimile for a schedule III, IV, or V controlled
27 substance, or for a schedule II controlled substance only
28 pursuant to federal law and regulation and rules of the board.

29 c. Orally for a schedule III, IV, or V controlled substance,
30 or for a schedule II controlled substance only in an emergency
31 situation pursuant to federal regulation and rules of the
32 board.

33 d. By providing an original signed prescription to a patient
34 or a patient's authorized representative.

35 4. If permitted by federal law and in accordance with

1 federal requirements, an electronic or facsimile prescription
2 shall serve as the original signed prescription and the
3 practitioner shall not provide a patient, a patient's
4 authorized representative, or the dispensing pharmacy with a
5 signed, written prescription. An original signed prescription
6 shall be retained for a minimum of two years from the date of
7 the latest dispensing or refill of the prescription.

8 5. A prescription for a schedule II controlled substance
9 shall not be filled more than six months after the date
10 of issuance. A prescription for a schedule II controlled
11 substance shall not be refilled.

12 6. A prescription for a schedule III, IV, or V controlled
13 substance shall not be filled or refilled more than six months
14 after the date on which the prescription was issued or be
15 refilled more than five times.

16 7. A controlled substance shall not be distributed or
17 dispensed other than for a medical purpose.

18 8. A practitioner, medical group, or pharmacy that is unable
19 to timely comply with the electronic prescribing requirements
20 in subsection 2, paragraph "b", may petition the board for an
21 exemption from the requirements based upon economic hardship,
22 technical limitations that the practitioner, medical group, or
23 pharmacy cannot control, or other exceptional circumstances.
24 The board shall adopt rules establishing the form and specific
25 information to be included in a request for an exemption
26 and the specific criteria to be considered by the board in
27 determining whether to approve a request for an exemption. The
28 board may approve an exemption for a period of time determined
29 by the board not to exceed one year from the date of approval,
30 and may be renewed annually upon request subject to board
31 approval.

32 Sec. _____. Section 155A.27, Code 2018, is amended by striking
33 the section and inserting in lieu thereof the following:

34 **155A.27 Requirements for prescription.**

35 1. Except when dispensed directly by a prescriber to an

1 ultimate user, a prescription drug shall not be dispensed
2 without a prescription, authorized by a prescriber, and based
3 on a valid patient-prescriber relationship.

4 2. a. Beginning January 1, 2020, every prescription issued
5 for a prescription drug shall be transmitted electronically as
6 an electronic prescription to a pharmacy by a prescriber or the
7 prescriber's authorized agent unless exempt under paragraph
8 "b".

9 b. Paragraph "a" shall not apply to any of the following:

10 (1) A prescription for a patient residing in a nursing home,
11 long-term care facility, correctional facility, or jail.

12 (2) A prescription authorized by a licensed veterinarian.

13 (3) A prescription for a device.

14 (4) A prescription dispensed by a department of veterans
15 affairs pharmacy.

16 (5) A prescription requiring information that makes
17 electronic transmission impractical, such as complicated or
18 lengthy directions for use or attachments.

19 (6) A prescription for a compounded preparation containing
20 two or more components.

21 (7) A prescription issued in response to a public health
22 emergency in a situation where a non-patient specific
23 prescription would be permitted.

24 (8) A prescription issued for an opioid antagonist pursuant
25 to section 135.190 or a prescription issued for epinephrine
26 pursuant to section 135.185.

27 (9) A prescription issued during a temporary technical
28 or electronic failure at the location of the prescriber or
29 pharmacy, provided that a prescription issued pursuant to
30 this subparagraph shall indicate on the prescription that the
31 prescriber or pharmacy is experiencing a temporary technical
32 or electronic failure.

33 (10) A prescription issued pursuant to an established and
34 valid collaborative practice agreement, standing order, or drug
35 research protocol.

1 (11) A prescription issued in an emergency situation
2 pursuant to federal law and regulation and rules of the board.
3 c. A practitioner, as defined in section 124.101, subsection
4 27, paragraph "a", who violates paragraph "a" is subject
5 to an administrative penalty of two hundred fifty dollars
6 per violation, up to a maximum of five thousand dollars per
7 calendar year. The assessment of an administrative penalty
8 pursuant to this paragraph by the appropriate licensing board
9 of the practitioner alleged to have violated paragraph "a"
10 shall not be considered a disciplinary action or reported
11 as discipline. A practitioner may appeal the assessment of
12 an administrative penalty pursuant to this paragraph, which
13 shall initiate a contested case proceeding under chapter
14 17A. A penalty collected pursuant to this paragraph shall be
15 deposited into the drug information program fund established
16 pursuant to section 124.557. The board shall be notified
17 of any administrative penalties assessed by the appropriate
18 professional licensing board and deposited into the drug
19 information program fund under this paragraph.
20 d. A pharmacist who receives a written, oral, or facsimile
21 prescription shall not be required to verify that the
22 prescription is subject to an exception under paragraph "b"
23 and may dispense a prescription drug pursuant to an otherwise
24 valid written, oral, or facsimile prescription. However, a
25 pharmacist shall exercise professional judgment in identifying
26 and reporting suspected violations of this section to the
27 board or the appropriate professional licensing board of the
28 prescriber.
29 3. For prescriptions issued prior to January 1, 2020,
30 or for prescriptions exempt from the electronic prescription
31 requirement in subsection 2, paragraph "b", a prescriber or the
32 prescriber's authorized agent may transmit a prescription for a
33 prescription drug to a pharmacy by any of the following means:
34 a. Electronically.
35 b. By facsimile.

1 *c.* Orally.

2 *d.* By providing an original signed prescription to a patient
3 or a patient's authorized representative.

4 4. A prescription shall be issued in compliance with
5 this subsection. Regardless of the means of transmission, a
6 prescriber shall provide verbal verification of a prescription
7 upon request of the pharmacy.

8 *a.* If written, electronic, or facsimile, each prescription
9 shall contain all of the following:

10 (1) The date of issue.

11 (2) The name and address of the patient for whom, or the
12 owner of the animal for which, the drug is dispensed.

13 (3) The name, strength, and quantity of the drug prescribed.

14 (4) The directions for use of the drug, medicine, or device
15 prescribed.

16 (5) The name, address, and written or electronic signature
17 of the prescriber issuing the prescription.

18 (6) The federal drug enforcement administration number, if
19 required under chapter 124.

20 *b.* If electronic, each prescription shall comply with all
21 of the following:

22 (1) The prescriber shall ensure that the electronic system
23 used to transmit the electronic prescription has adequate
24 security and safeguards designed to prevent and detect
25 unauthorized access, modification, or manipulation of the
26 prescription.

27 (2) Notwithstanding paragraph "a", subparagraph (5),
28 for prescriptions that are not controlled substances, if
29 transmitted by an authorized agent, the electronic prescription
30 shall not require the written or electronic signature of the
31 prescriber issuing the prescription.

32 *c.* If facsimile, in addition to the requirements of
33 paragraph "a", each prescription shall contain all of the
34 following:

35 (1) The identification number of the facsimile machine

1 which is used to transmit the prescription.

2 (2) The date and time of transmission of the prescription.

3 (3) The name, address, telephone number, and facsimile
4 number of the pharmacy to which the prescription is being
5 transmitted.

6 *d.* If oral, the prescriber issuing the prescription
7 shall furnish the same information required for a written
8 prescription, except for the written signature and address
9 of the prescriber. Upon receipt of an oral prescription,
10 the recipient shall promptly reduce the oral prescription to
11 a written format by recording the information required in a
12 written prescription.

13 *e.* A prescription transmitted by electronic, facsimile,
14 or oral means by a prescriber's agent shall also include
15 the name and title of the prescriber's agent completing the
16 transmission.

17 5. An electronic, facsimile, or oral prescription
18 shall serve as the original signed prescription and the
19 prescriber shall not provide a patient, a patient's authorized
20 representative, or the dispensing pharmacist with a signed
21 written prescription. Prescription records shall be retained
22 pursuant to rules of the board.

23 6. This section shall not prohibit a pharmacist,
24 in exercising the pharmacist's professional judgment,
25 from dispensing, at one time, additional quantities of a
26 prescription drug, with the exception of a prescription drug
27 that is a controlled substance as defined in section 124.101,
28 up to the total number of dosage units authorized by the
29 prescriber on the original prescription and any refills of
30 the prescription, not to exceed a ninety-day supply of the
31 prescription drug as specified on the prescription.

32 7. A prescriber, medical group, institution, or pharmacy
33 that is unable to timely comply with the electronic prescribing
34 requirements in subsection 2, paragraph "a", may petition
35 the board for an exemption from the requirements based upon

1 economic hardship, technical limitations that the prescriber,
2 medical group, institution, or pharmacy cannot control, or
3 other exceptional circumstances. The board shall adopt rules
4 establishing the form and specific information to be included
5 in a request for an exemption and the specific criteria to be
6 considered by the board in determining whether to approve a
7 request for an exemption. The board may approve an exemption
8 for a period of time determined by the board, not to exceed one
9 year from the date of approval, and may be annually renewed
10 subject to board approval upon request.

11 Sec. _____. Section 155A.29, subsection 4, Code 2018, is
12 amended to read as follows:

13 4. An authorization to refill a prescription drug order may
14 shall be transmitted to a ~~pharmacist~~ pharmacy by a prescriber
15 or the prescriber's authorized agent ~~through word of mouth,~~
16 ~~note, telephone, facsimile, or other means of communication~~
17 ~~initiated by or directed by the practitioner. The transmission~~
18 ~~shall include the information required pursuant to section~~
19 155A.27, except that prescription drug orders for controlled
20 substances shall be transmitted pursuant to section 124.308,
21 and, if not transmitted directly by the practitioner,
22 shall ~~identify by~~ also include the name and title of the
23 practitioner's agent completing the transmission.>

24 7. Page 13, by striking line 14.

25 8. Page 21, after line 25 by inserting:

26 <(f) Medical assistance was not sought during the execution
27 of an arrest warrant, search warrant, or other lawful search.>

28 9. Page 22, by striking lines 10 through 12 and inserting:

29 <5. Nothing in this section shall do any of the following:

30 a. Preclude or prevent an investigation by law enforcement
31 of the drug-related overdose where medical assistance was
32 provided.

33 b. Be construed to limit or bar the use or admissibility
34 of any evidence or information obtained in connection with the
35 investigation of the drug-related overdose in the investigation

1 or prosecution of other crimes or violations which do not
2 qualify for immunity under this section and which are committed
3 by any person, including the overdose patient or overdose
4 reporter.

5 *c.* Preclude the investigation or prosecution of any person
6 on the basis of evidence obtained from sources other than the
7 specific drug-related overdose where medical assistance was
8 provided.>

9 10. By renumbering, redesignating, and correcting internal
10 references as necessary.

LUNDGREN of Dubuque